

(PRE-FILED)

By: **Delegates Impallaria and McDonough**

Requested: October 9, 2003

Introduced and read first time: January 14, 2004

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Illegal Aliens - Detention Requirement**

3 FOR the purpose of requiring a police officer to detain an undocumented alien under
4 certain circumstances until custody of the undocumented alien is transferred to
5 the Bureau of Citizenship and Immigration Services of the United States
6 Department of Homeland Security; requiring a police officer to contact the
7 Bureau of Citizenship and Immigration Services of the United States
8 Department of Homeland Security when the police officer detains an
9 undocumented alien; prohibiting a police officer from searching for
10 undocumented aliens for a certain purpose; defining a certain term; and
11 generally relating to undocumented aliens.

12 BY repealing and reenacting, without amendments,
13 Article - Criminal Procedure
14 Section 2-101(c)
15 Annotated Code of Maryland
16 (2001 Volume and 2003 Supplement)

17 BY adding to
18 Article - Criminal Procedure
19 Section 2-108
20 Annotated Code of Maryland
21 (2001 Volume and 2003 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Criminal Procedure**

25 2-101.

26 (c) "Police officer" means a person who in an official capacity is authorized by
27 law to make arrests and is:

- 1 (1) a member of the Department of State Police;
- 2 (2) a member of the Police Department of Baltimore City;
- 3 (3) a member of the Baltimore City School Police Force;
- 4 (4) a member of the police department, bureau, or force of a county;
- 5 (5) a member of the police department, bureau, or force of a municipal
6 corporation;
- 7 (6) a member of the Maryland Transit Administration Police Force,
8 Maryland Port Administration Police Force, or Maryland Transportation Authority
9 Police Force;
- 10 (7) a member of the University of Maryland Police Force or Morgan State
11 University Police Force;
- 12 (8) a special police officer who is appointed to enforce the law and
13 maintain order on or protect property of the State or any of its units;
- 14 (9) a member of the Department of General Services security force;
- 15 (10) the sheriff of a county whose usual duties include the making of
16 arrests;
- 17 (11) a regularly employed deputy sheriff of a county who is compensated
18 by the county and whose usual duties include the making of arrests;
- 19 (12) a member of the Natural Resources Police Force of the Department of
20 Natural Resources;
- 21 (13) an authorized employee of the Field Enforcement Division of the
22 Comptroller's Office;
- 23 (14) a member of the Maryland-National Capital Park and Planning
24 Commission Park Police;
- 25 (15) a member of the Housing Authority of Baltimore City Police Force;
- 26 (16) a member of the Crofton Police Department;
- 27 (17) a member of the WMATA Metro Transit Police, subject to the
28 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan
29 Area Transit Authority Compact, which is codified at § 10-204 of the Transportation
30 Article;
- 31 (18) a member of the Internal Investigative Unit of the Department;
- 32 (19) a member of the State Forest and Park Service Police Force of the
33 Department of Natural Resources;

1 (20) a member of the Department of Labor, Licensing, and Regulation
2 Police Force; or

3 (21) a member of the Washington Suburban Sanitary Commission Police
4 Force.

5 2-108.

6 (A) A POLICE OFFICER:

7 (1) SHALL DETAIN AN UNDOCUMENTED ALIEN:

8 (I) WHOM THE POLICE OFFICER ENCOUNTERS IN THE NORMAL
9 COURSE OF THE OFFICER'S DUTIES AND WHO THE POLICE OFFICER DETERMINES IS
10 AN UNDOCUMENTED ALIEN;

11 (II) WHO IS THEREAFTER TAKEN INTO CUSTODY BY THE OFFICER;
12 AND

13 (III) UNTIL THE INDIVIDUAL TAKEN INTO CUSTODY IS
14 TRANSFERRED TO THE CUSTODY OF THE BUREAU OF CITIZENSHIP AND
15 IMMIGRATION SERVICES OF THE UNITED STATES DEPARTMENT OF HOMELAND
16 SECURITY; BUT

17 (2) MAY NOT SEARCH FOR UNDOCUMENTED ALIENS FOR THE SOLE
18 PURPOSE OF DETAINING THEM.

19 (B) A POLICE OFFICER SHALL INFORM THE BUREAU OF CITIZENSHIP AND
20 IMMIGRATION SERVICES OF THE UNITED STATES DEPARTMENT OF HOMELAND
21 SECURITY AS SOON AS POSSIBLE AFTER THE POLICE OFFICER HAS DETAINED AN
22 UNDOCUMENTED ALIEN.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
24 effect October 1, 2004.